

Message Text

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-----019250 291433Z /41

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FM SECSTATE WASHDC
TO AMEMBASSY ANKARA

UNCLAS STATE 080273

E.O. 11652:N/A

TAGS: BDIS, TU

SUBJECT: TRADE COMPLAINT: ILI CORP VS. PTT, ANKARA TURKEY

RESPONSE TO EMBASSY REQUEST FOR USDOC COMMENT ON CASES
SIMILAR TO ILI CO.'S TRADE COMPLAINTS, FOLLOWS. IN OUR
VIEW, ILI'S PROBLEM IS ESSENTIALLY NON-TRANSFERABILITY
INTO DOLLARS OF PAYMENT MADE IN FOREIGN CURRENCY.

IN NORMAL CIRCUMSTANCES, U.S. COMPANIES CAN PROTECT THEM-
SELVES AGAINST NON-TRANSFERABILITY WITH EXIMBANK GUARANTEE
PROGRAM AGAINST POLITICAL RISKS, INCLUDING "NON-TRANSFER-
ABILITY OF LOCAL CURRENCIES INTO DOLLARS." U.S. EXPORTER
APPLIES FOR COVERAGE BEFORE SHIPPING GOODS. EXIMBANK
RESERVES RIGHT TO DECLINE COVERAGE FOR SPECIFIED COUNTRIES,
HAS SUSPENDED INDEFINITELY GUARANTEES AGAINST NON-TRANSFER-
ABILITY WITH BUYERS IN TURKEY. EXIMBANK MADE DECISION
BECAUSE OF WELL KNOWN ECONOMIC CONDITIONS IN TURKEY.
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INTERAGENCY STAFF COORDINATING GROUP ON EXPROPRIATIONS
MEETS TO RECOMMEND PRESIDENTIAL ACTION, INCLUDING SANCTIONS,
IF U.S. MAJORITY-OWNED PROPERTIES ARE NATIONALIZED OR EX-
PROPRIATED AND NO STEPS ARE TAKEN TO PROVIDE PROMPT,

ADEQUATE, AND EFFECTIVE COMPENSATION. USDOC DELEGATE TO

COMMITTEE REPORTS NON-TRANSFERABILITY DISCUSSED AT MEETINGS, ONLY IF RELATED TO SETTLEMENT FOR EXPROPRIATED PROPERTIES AND AGREEMENT SPECIFIED PAYMENT IN DOLLARS.

USUALLY NATIONAL LAW OF ONE OF PARTIES APPLIES, PARTICULARLY IF SPECIFIED IN CONTRACT. BEFORE SIGNING SUPPLY CONTRACT, U.S. COMPANY IS FREE TO NEGOTIATE FOR CONTRACT CLAUSE MAKING DISPUTES OVER CURRENCY ALLOCATION OR NON-TRANSFERABILITY SUBJECT TO ARBITRATION OR LAW OF PARTICULAR COUNTRY, IF LITIGATION OCCURS. ACCORDINGLY, IF COMPANY FORESEES PROBLEM WITH NON-TRANSFERABILITY, IT CAN PROTECT ITSELF BY CONTRACT CLAUSE PROVIDING FOR APPROPRIATE DELAY IN PERFORMANCE UNTIL LETTER OF CREDIT CONFIRMED BY U.S. BANK OR IT IS OTHERWISE ASSURED PAYMENT FORTHCOMING. ONCE COMPANY IS IN ILI'S POSITION, REMEDIES ARE OFTEN EXPENSIVE AND INADEQUATE. COOPER

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Draft Date: 29 mar 1978
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Disposition Event:
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